

To: Allgeier, Steve[Allgeier.Steve@epa.gov]
From: Travers, David
Sent: Fri 1/10/2014 9:10:04 PM
Subject: FW: FYI only: update on WV

FYI

From: Travers, David
Sent: Friday, January 10, 2014 3:09 PM
To: Grevatt, Peter; Clark, Becki; Shapiro, Mike
Cc: Lopez-Carbo, Maria
Subject: FYI only: update on WV

FYI, article below:

A Class Action lawsuit was filed in Charleston, WV today arising out of Freedom Industries' release of the chemical 4-methylcyclohexane methanol into the Elk River. The release was a short distance from West Virginia-American Water Company's intake facility, and contaminated the water supply to tens of thousands of West Virginia residences and businesses in Kanawha, Putnam, Boone, Jackson, Lincoln, Roane, Clay and Logan counties (and the Culloden area of Cabell County). According to the West Virginia Department of Health & Human Resources, 4-methylcyclohexane methanol is a hazardous material that can cause severe burning in throat, severe eye irritation, non-stop vomiting, trouble breathing or severe skin irritation such as skin blistering.

The Class Action lawsuit was filed by the law firms of DiTrapano Barrett DiPiero McGinley & Simmons, PLLC and the Webb Law Firm, both of Charleston on behalf of Adelphia, Inc., which operates a local restaurant and other businesses. The putative Class includes residents and/or owners of business in Kanawha, Putnam, Boone, Jackson, Lincoln, Roane, Clay and Logan counties and the Culloden area of Cabell County who are supplied water by West Virginia American Water Company.

The Class Action Complaint alleges Freedom Industries, Inc. released the coal cleaning chemical 4-methylcyclohexane methanol into the Elk River and quickly contaminated the entire water supply of nine surrounding counties and over 100,000 West Virginians. While the spill and contamination occurred before daylight on January 9, 2014, the affected water users were not told until that evening that they should not drink, cook with or wash with water supplied by the water company and the water could be used only for flushing toilets and putting out fires. The Class Action Complaint states West Virginia Gov. Earl Ray Tomblin declared a state of emergency in Kanawha, Putnam, Boone, Jackson and Lincoln counties because of Freedom's release of the chemical 4-methylcyclohexane methanol into the Elk River and its subsequent contamination of Defendant West Virginia-American's water intake facility.

The Complaint alleges that hours before any public warnings were issued, water company officials deceptively told a different story, and said their treatment facility - which is near the leak site on the Elk River - could handle the leak. This induced local residents to continue to use contaminated water that was hazardous and posed a substantial health risk.

It is further alleged that because of the contamination of the local water supply caused by Freedom's release of the chemical 4-methylcyclohexane methanol into the Elk River and its subsequent contamination of Defendant West Virginia-American's water intake facility, schools in affected counties were closed on Friday January 10, 2014, causing many working parents and other care-givers to have to either stay home from work with their school age children or to pay for child care, in either event causing damage they would not otherwise have incurred.

The Complaint states West Virginia-American Water Co. President Jeff McIntyre initially told the public at a news conference that the water company was confident its plant could handle the treatment of the chemical, and less than three hours before the state of emergency was declared by Governor Tomblin, an official statement from West Virginia-American Water Company assured the public that the spill "does not present a health risk to customers.

The Complaint states that because of Freedom's release of the chemical 4-methylcyclohexane methanol into the local water supply, the Kanawha-Charleston Health Department directed restaurants, bars, day-care centers and all other businesses with a health permit in Kanawha and Putnam counties to, "cease operations immediately." This directive applied to about 1200 health department permits issued in Kanawha County and about 300 in Putnam County, including businesses of Adelpia, Inc., causing it and similarly situated businesses to shut down and incur damages.

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